

DOCKET FILE COPY ORIGINAL

ANN BAVENDER\*  
HARRY F. COLE  
ANNE GOODWIN CRUMP  
VINCENT J. CUHTIS, JR.  
PAUL J. FELDMAN  
FRANK R. JAZZO  
EUGENE M. LAWSON, JR.  
MITCHELL LAZARUS  
SUSAN A. MARSHALL  
HARRY C. MARTIN  
LEE G. PETRO\*  
RAYMOND J. QUIANZON  
JAMES P. RILEY  
ALISON J. SHAPIRO  
KATHLEEN VICTORY  
JENNIFER DINE WAGNER\*  
LILIANA E. WARD  
HOWARD M. WEISS

\* NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET

ARLINGTON, VIRGINIA 22209-3801

OFFICE: (703) 812-0400

FAX: (703) 812-0486

www.fhhlaw.com

RETIRED MEMBERS  
RICHARD HILDRETH  
GEORGE PETRUTSAS

CONSULTANT FOR INTERNATIONAL AND  
INTERGOVERNMENTAL AFFAIRS  
SHELDON J. KRYS  
U. S. AMBASSADOR (ret.)

OF COUNSEL  
EDWARD A. CAINE\*  
DONALD J. EVANS  
FRANCISCO R. MONTERO  
EDWARD S. O'NEILL\*

(703) 812-0471  
weiss@fhhlaw.com

August 25, 2003

RECEIVED

AUG 25 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W. Room TW B204  
Washington, D.C. 20554

Re: New FM Allotment  
Coosada, AL

Dear Ms. Dortch:

Enclosed for filing are an original and four copies of a petition for rulemaking to allot Channel 226A to Coosada, Alabama.

Questions regarding this petition should be directed to the undersigned counsel.

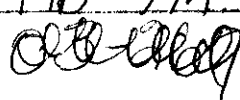
Sincerely,



Howard M. Weiss

HMW/emo  
Enclosure

No. of Copies rec'd 044  
List ABOVE

MB - FM  


**ORIGINAL**

**Before the  
Federal Communications Commission  
Washington, DC**

**RECEIVED**

In the Matter of )  
  
Amendment of Section 73.202(b) )  
Table of Allotments )  
FM Broadcast Stations )  
(Coosada, Alabama) )

AUG 25 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

RM-\_\_\_\_\_

To: Chief, Allocations Branch

**PETITION FOR RULEMAKING**

Tempest Communications, by its attorney, hereby requests that the FM Table of Allotments be modified as follows:

<b><u>Community</u></b>	<b><u>Present</u></b>	<b><u>Proposed</u></b>
Coosada, AL	-----	226A

With respect thereto, the following is stated:

Coosada, Alabama, is an incorporated town, with a 2000 U.S. Census population of 1,382 persons located in Elmore County. See Attachment 1. It is governed by a Mayor and a five-member City Council.

At present, Coosada has no local radio service. Therefore, the proposal, if granted, would constitute a first local service (FM Priority "3").

As indicated in the attached Technical Exhibit (see Attachment 2), Channel 226A can be assigned to Coosada, using the reference site coordinates of 32-30-02 N, 86-17-09 W. At the reference site, all minimum distance separation requirements of


§73.202(b) of the rules are met, as well as the principal community contour coverage requirements of §73.315(a).

In the event that Channel 226A is allotted to Coosada, Tempest Communications will file an application for a construction permit to operate a new FM broadcast station at Coosada, and, if authorized, will promptly construct the station.

We note that the Commission previously allotted Channel 226A to Coosada at the request of Media Equities Corp. on April 12, 2002. (See DA 02-865; copy attached as Attachment 3.) However, the proponent subsequently withdrew its expression of interest and the FCC granted a petition for reconsideration to delete the channel. (See DA 02-2816; copy attached as Attachment 4.) Still, the FCC's ruling clearly supports a similar ruling in response to the instant petition.

Accordingly, Tempest Communications respectfully requests that the Commission request comment on the proposal contained herein, that the Petition be adopted, and that the Commission amend the FM Table of Allotments to specify the new channel at Coosada, Alabama.

Respectfully submitted,  
TEMPEST COMMUNICATIONS

By:   
Howard M. Weiss  
Fletcher, Heald & Hildreth PLC  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, Virginia 22209-3801  
703-812-0400

Its Attorney

Date: August 25, 2003

# **ATTACHMENT 1**

## U.S. Census Bureau

American FactFinder

[Main](#) | [Search](#) | [Feedback](#) | [FAQs](#) | [Glossary](#)

## Quick Tables

QT-PL. Race, Hispanic or Latino, and Age: 2000

Data Set: Census 2000 Redistricting Data (Public Law 94-171) Summary File

Geographic Area: **Coosada town, Alabama**

NOTE: For information on confidentiality protection, nonsampling error, and definitions, see <http://factfinder.census.gov/home/en/datanotes/expplu.html>.

Subject	All ages		18 years and over	
	Number	Percent	Number	Percent
<b>RACE</b>				
<b>Total population</b>	<b>1,382</b>	<b>100.0</b>	<b>941</b>	<b>100.0</b>
One race	1,373	99.3	939	99.8
White	775	56.1	551	58.6
Black or African American	588	42.5	379	40.3
American Indian and Alaska Native	5	0.4	4	0.4
Asian	2	0.1	2	0.2
Native Hawaiian and Other Pacific Islander	0	0.0	0	0.0
Some other race	3	0.2	3	0.3
Two or more races	9	0.7	2	0.2
<b>HISPANIC OR LATINO AND RACE</b>				
<b>Total population</b>	<b>1,382</b>	<b>100.0</b>	<b>941</b>	<b>100.0</b>
Hispanic or Latino (of any race)	9	0.7	7	0.7
Not Hispanic or Latino	1,373	99.3	934	99.3
One race	1,366	98.8	932	99.0
White	772	55.9	548	58.2
Black or African American	587	42.5	378	40.2
American Indian and Alaska Native	5	0.4	4	0.4
Asian	2	0.1	2	0.2
Native Hawaiian and Other Pacific Islander	0	0.0	0	0.0
Some other race	0	0.0	0	0.0
Two or more races	7	0.5	2	0.2

(X) Not applicable

Source: U.S. Census Bureau, Census 2000 Redistricting Data (Public Law 94-171) Summary File, Matrices PL1, PL2, PL3, and PL4.

# **ATTACHMENT 2**

JOHN J. MULLANEY  
JOHN H. MULLANEY, P.E. (1994)  
ALAN E. GEARING, P.E.

**MULLANEY ENGINEERING, INC.**

9049 SHADY GROVE COURT  
GAITHERSBURG, MD 20877

301 921-0115 Voice  
301 590-9757 Fax  
multengr@aol.com E-mail

**ENGINEERING EXHIBIT EE-RM:**

**RULE MAKING TO AMEND  
FM TABLE OF ALLOTMENTS**

**ALLOT CH. 226A TO COOSADA, ALABAMA**

**AUGUST 21, 2003**

**ENGINEERING STATEMENT PREPARED ON BEHALF OF  
TEMPEST COMMUNICATIONS**

**ENGINEERING EXHIBIT EE-RM:**

**RULE MAKING TO AMEND  
FM TABLE OF ALLOTMENTS**

**ALLOT CH. 226A TO COOSADA, ALABAMA**

**TABLE OF CONTENTS:**

1. Declaration of Engineer
2. Narrative Statement
3. Figure 1, Channel Allocation Study for Ch. 226A.  
Special Ref. Point for Coosada, AL
4. Figure 2, General Area Map.



## Declaration

I, John J. Mullaney, declare and state that I am a graduate electrical engineer with a B.E.E. and my qualifications are known to the Federal Communications Commission, and that I am an principal engineer in the firm of Mullaney Engineering, Inc., and that I have provided engineering services in the area of telecommunications since 1977. My qualifications as an expert in radio engineering are a matter of record with the Federal Communications Commission.

The firm of Mullaney Engineering, Inc., has been requested by Tempest Communications to prepare the instant engineering exhibit in support of a rule making petition to amend the FM Table of Allotments at Coosada, Alabama.

All facts contained herein are true of my own knowledge except where stated to be on *information or belief*, and as to those facts, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

/s/ John J. Mullaney

John J. Mullaney, Consulting Engineer

Executed on the 21st day of August 2003

**ENGINEERING EXHIBIT EE-RM:**

**RULE MAKING TO AMEND  
FM TABLE OF ALLOTMENTS**

**ALLOT CH. 226A TO COOSADA, ALABAMA**

**NARRATIVE STATEMENT:**

This engineering statement has been prepared on behalf of Tempest Communications ("Tempest"). The purpose of this statement is to provide engineering in support of a rule making petition to amend the FM Table of Allotments to allot Ch. 226A to Coosada, Alabama. This allotment will provide a first aural service to a community with a population of 1,382 persons (2000 Census).

The proposed reference point is not within 290 kilometers (180 miles) of a United States Border and, therefore, foreign concurrence is not required.

**Proposed Reference Site**

For the purposes of this rule making the applicant proposes to use a special reference point 4.3 km East of the city reference coordinates for Coosada, AL.

N. Latitude:	32°	30'	02"	NAD-27 <b>Special Reference</b>
W. Longitude:	86°	17'	09"	
N. Latitude:	32°	29'	52"	NAD-27 City Reference
W. Longitude:	86°	19'	53"	

The proposed reference site will provide an unobstructed view of the city of license, Coosada, and is located close enough to serve the entire community with

the required 3.16 mV/M or 70 dBu contour. Figure 2 is a general area map showing Coosada.

### **Channel Allocation Study**

Figure 1 is a Channel Allocation Study from the special reference point for Coosada, Alabama. The study indicates the actual & required separation in kilometers to all licenses, construction permits, applications, vacant allocations and pending rule makings. From this study it can be determined that proposed reference point exceeds all of these minimum separations. The 4.3 km restriction is necessary to avoid a short spacing with WTUG-FM (Lic) on Ch. 225C1 at Tuscaloosa/Northport and to WPGG (Lic) on Ch. 227C1 at Evergreen, AL. The CP authorization held by WPGG is far enough away that no short spacing will exist, however, the WTUG-FM protection would still require the same general site restriction.

### **Public Interest Showing**

The proposed operation 6 kW at 100 meters HAAT on Ch. 226A from the proposed special reference coordinates will potentially provide 60 dBu service to 303,250 persons (2000 Census) and 2,522 square kilometers.

The city of Coosada is located in Elmore County and has a population of 1,382 persons. The allotment of Channel 226A will be the first aural service licensed to this community.

Based upon the above information, Tempest believes that its request results in a preferential arrangement of allotments and therefore, serves the public interest.

**SUMMARY**

Tempest Communications requests that the FM Table of Allotments be amended to allot Ch. 226A to Coosada, AL.

	<b>Present</b>	<b>Proposed</b>
Coosada, AL	- - -	226A

Special Reference Point: 32-30-02 / 86-17-09  
4.3 km east of Coosada.

Tempest believes that the proposed allotment will serve the public interest. If granted, Tempest will quickly file an application for construction permit.

/s/ John J. Mullaney

John J. Mullaney, Consulting Engineer

August 21, 2003.

# TEMPEST COMMUNICATIONS - CH. 226A - COOSADA, ALABAMA

AUGUST 2003

## REFERENCE

32 30 02 N

86 17 09 W

CLASS = A

Current Spacings

## DISPLAY DATES

DATA 08-21-03

SEARCH 08-21-03

----- Channel 226 - 93.1 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin
	226A	Coosada	AL	4.29	265.9	City Reference
		32-29-52 / 86-19-53				
WPGG	LIC-N 227C1	Evergreen	AL	133.20	207.5	133.0 0.20
WTUGFM	LIC-N 225C1	Tuscaloosa	AL	133.34	297.9	133.0 0.34
RDEL	DEL 225C1	Tuscaloosa	AL	133.34	297.9	133.0 0.34
RADD	ADD 225C1	Northport	AL	133.45	297.9	133.0 0.45
RADD	ADD 228A	Shorter	AL	40.08	112.7	31.0 9.08
WBBKFM	CP -N 226C2	Blakely	GA	176.97	138.7	166.0 10.97
WPGG.C	CP 227C1	Evergreen	AL	148.34	198.7	133.0 15.34
WVFJFM	LIC 227C1	Manchester	GA	156.18	64.9	133.0 23.18
WDJCFM	LIC 229C	Birmingham	AL	118.42	332.3	95.0 23.42
RDEL	DEL 229C	Birmingham	AL	118.42	332.3	95.0 23.42
RADD	ADD 229C0	Birmingham	AL	118.42	332.3	86.0 32.42
WVFJFM	APP 227C1	Manchester	GA	167.34	77.5	133.0 34.34
WBBKFM	LIC 226C3	Blakely	GA	176.97	138.7	142.0 34.97

CHANNEL STUDY - 226A - NEW ALLOTMENT COOSADA, AL

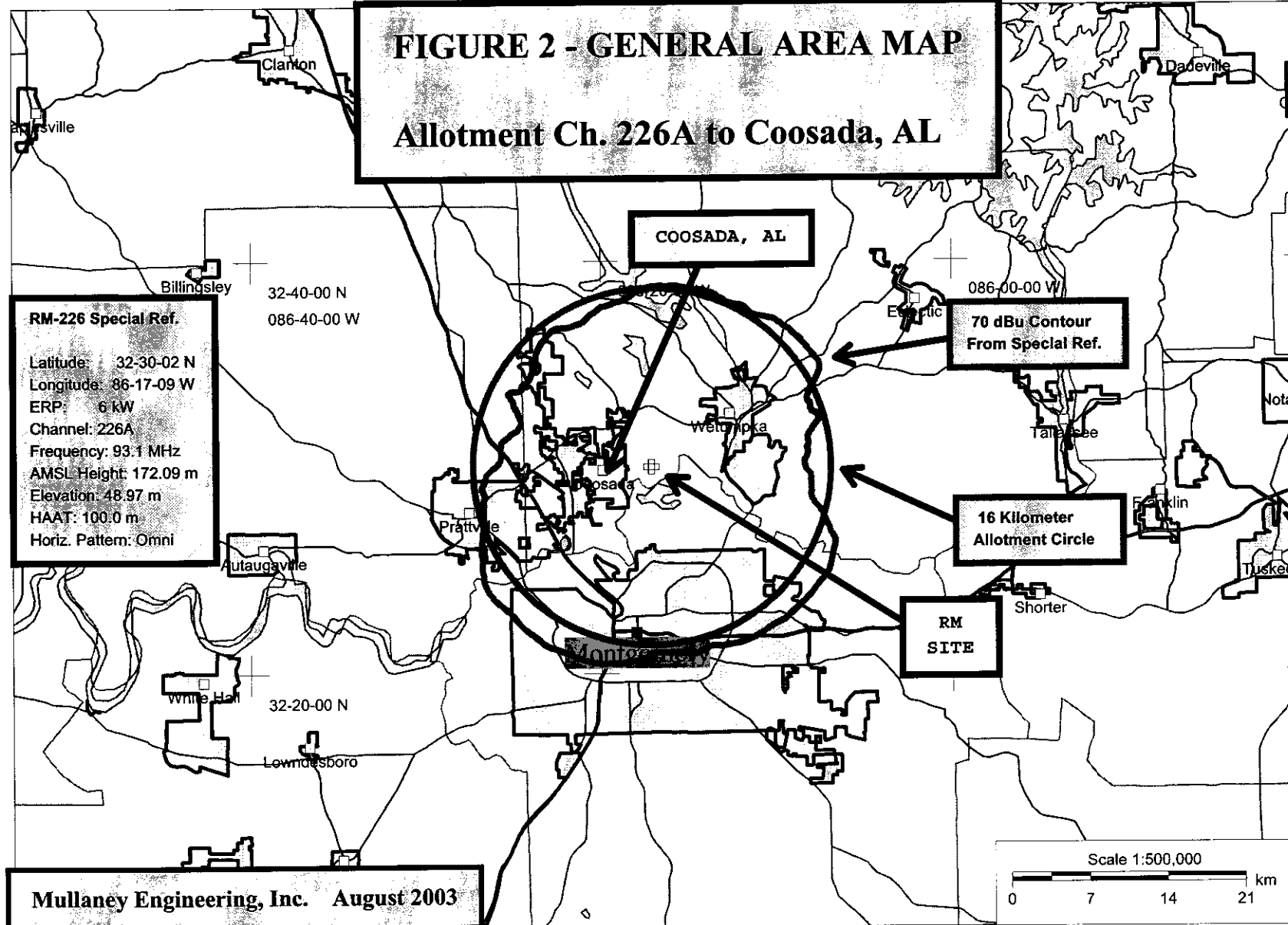
TEMPEST COMMUNICATIONS  
RULEMAKING PROPOSAL  
CH. 226A - COOSADA, ALABAMA

MULLANEY ENGINEERING, INC.  
GAITHERSBURG, MARYLAND

FIGURE 1  
AUGUST 2003

## FIGURE 2 - GENERAL AREA MAP

### Allotment Ch. 226A to Coosada, AL



---

# **ATTACHMENT 3**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

RECEIVED &amp; INSPECTED

APR 15 2002

FCC - MAILROOM

In the matter of	)	
	)	
Amendment of Section 73.202(b)	)	
FM Table of Allotments,	)	
FM Broadcast Stations	)	
(Pierce, Nebraska)	)	MM Docket No. 01-340
	)	RM-10345
	)	
(Coosada, Alabama)	)	MM Docket No. 01-341 ✓
	)	RM-10346
	)	
(Pineview, Georgia)	)	MM Docket No. 01-342
	)	RM-10347
	)	
(Diamond Lake, Oregon)	)	MM Docket No. 01-343
	)	RM-10348

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: April 3, 2002

Released: April 12, 2002

By the Assistant Chief, Audio Division:

1. The Audio Division considers herein a multiple docket *Notice of Proposed Rule Making* setting forth four separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each proposal involves adding a community to the FM Table of Allotments. Each petitioner filed comments reiterating its intention to file an application for construction permit at each locality and effectuate the change of community if granted. Comments in support were filed in one of the proceedings.

2. This is a multiple docket *Report and Order* issued in response to a Commission *Public Notice* released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single *Report and Order*. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the *Public Notice*, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We discuss the following proposals:

**A. MM Docket No. 01-340, RM-10345**

**Petitioner:** Pierce Radio, LLC  
C/O Lawrence Bernstein  
Law Offices of Lawrence Bernstein  
1818 N Street, NW  
Suite 700  
Washington, DC 20036

**Determination:** Allot Channel 248C2 at Pierce, Nebraska, as the community's first local aural



transmission service.

Accordingly, pursuant to the authority contained in Sections 4 (i), 5(c)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED That effective May 28, 2002, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel No.</u>
Pierce, Nebraska	248C2

Coordinates: 42-11-30 NL and 97-28-00 WL.

**Additional Information:** Channel 248C2 is allotted at Pierce at a site 5 kilometers (3.1 miles) east of the community. Petitioner Pierce Radio, LLC, filed comments in support of the allotment, stating that it would file an application for the channel and build the station. Michael C. Flood also filed comments in support. Both commenters addressed the community status of Pierce, and state that it is a community for allotment purposes. We agree. Pierce is the largest community in Pierce County, and is the county seat. It has a 1990 US Census population of 1615 persons, and a 2000 US Census population of 1,774 persons. The city has a mayor and city council as well as a city administrator, zoning administrator, city clerk and treasurer. It has several city departments, and a police and volunteer fire department. It is also planning to build a library. As the county seat, Pierce houses county offices, and county officials. In addition, there are churches, businesses, medical facilities and recreational facilities.

**FCC Contact:** Victoria M. McCauley (202) 418-2180.

**B. MM Docket No. 01-341, RM-10346**

**Petitioner:** Media Equities Corp.  
C/O Dan J. Alpert  
Law Offices of Dan J. Alpert  
2120 N. 21<sup>st</sup> Rd.  
Arlington, VA 22201

**Determination:** Allot Channel 226A at Coosada, Alabama as the community's first local aural transmission service.

Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED That effective May 28, 2002, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel</u>
Coosada, Alabama	226A

Coordinates: 32-26-58 NL and 86-11-38 WL

**Additional Information:** Channel 226A is allotted at Coosada at a site 14 kilometers (8.7 miles) southeast of the community. Petitioner Media Equities Corp. filed comments reiterating its intention to file an application for the channel, if allotted. We have determined that Coosada is a community for allotment purposes. Coosada is an incorporated town with a 2000 U.S. Census population of 1,382

persons. It is governed by a mayor and five-member city council. In addition, it has its own police and fire departments, six churches, and several businesses, including a bank, car dealer, gas station, grocery store and pharmacy.<sup>1</sup>

**FCC Contact:** Victoria M. McCauley (202) 418-2180.

**C. MM Docket No. 01-342, RM-10347**

**Petitioner:** Data+Corp.  
C/O Dan J. Alpert  
Law Offices of Dan J. Alpert  
2120 N. 21<sup>st</sup> Rd.  
Arlington, VA 22201

**Determination:** Allot Channel 226A at Pineview, Georgia, as the community's first local aural transmission service.

Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED That effective May 28, 2002, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel</u>
Pineview, Georgia	226A

**Coordinates:** 32-00-44 NL and 83-28-19 WL.

**Additional Information:** Channel 226 is allotted at Pineview at a site 8.4 kilometers (5.3 miles) southeast of the community. Petitioner Data+Corp. filed comments in support of the allotment and stating that it would file an application for the channel, if allotted. We have determined that Pineview is a community for allotment purposes.

**FCC Contact:** Victoria M. McCauley (202) 418-2180.

**D. MM Docket No. 01-343, RM-10348**

**Petitioner:** Robert W. Larson  
161 Millsview Lane  
Roseburg, Oregon 97470

**Determination:** Allot Channel 299A at Diamond Lake, Oregon, as the community's first local aural transmission service.

Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED That effective May 28, 2002, the FM Table of Allotments, Section 73.202(b) of the

<sup>1</sup> We also received an informal filing dated December 12, 2001, addressed to a Sharon Black referencing this allotment. To our knowledge, this pleading was not served on the petitioner and makes no actual request or comment to the Commission. We have not considered this pleading herein.

Commission's Rules, IS AMENDED, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Channel</u>
Diamond Lake, Oregon	299A

Coordinates: 43-10-44 NL and 122- 8-16 WL

**Additional Information:** Channel 299A can be allotted at Diamond Lake without a site restriction. Petitioner Robert W. Larson filed comments in support of the allotment, stating that he will apply for the channel if allotted, and giving additional information on the community status of Diamond Lake. We have determined that Diamond Lake is a community for allotment purposes. Diamond Lake is an unincorporated resort community in a remote location in the Cascade Mountains. It has a U.S. Forest Service Ranger Station and a volunteer fire department. The community has approximately 175 year-round residents, and there are more than 3,000 year-round residents in the surrounding area. It is on Highway 138 and receives more than one million visitors per year. It is in the Rand McNally Road Atlas. There are many websites devoted to it. Petitioner lists over thirty- five entities that are located in the immediate area. He claims that the community receives no local radio or television signals due to the terrain, and that for safety, the community needs its own local service.

**FCC Contact:** Victoria M. McCauley (202) 418-2180.

3. Filing windows for Channels 248C2 at Pierce, Nebraska, 226A at Coosada, Alabama, 226A at Pineview, Georgia, and 299A at Diamond Lake, Oregon will not be opened at this time. Instead the issue of opening these allotments for auction will be addressed by the Commission in a subsequent *Order*.

4. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. Questions related to the application process for Channels 248C2 at Pierce, Nebraska, 226A at Coosada, Alabama, 226A at Pineview, Georgia, and 299A at Diamond Lake, Oregon should be addressed to the Audio Division, Media Bureau (202) 418-2700.

5. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

#### FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Office of Broadcast License Policy  
Media Bureau

# **ATTACHMENT 4**

RECEIVED & INSPECTED  
OCT 31 2002  
FCC - MAILROOM

MM Docket No. 01-341  
RM-10346

**Released: October 25, 2002**

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and 0.61, 0.204(b) and 0.283 of the Commission's Rules, **IT IS ORDERED** That effective December 9, 2002, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, **IS AMENDED**, with respect to the communities listed below, as follows:

Coosada, Alabama

<sup>1</sup> See *Wickenburg, Bagdad, and Aguila, Arizona*, 16 FCC Rcd 15793 (Allocations Branch 2001).

6. IT IS FURTHER ORDERED That the petition for reconsideration filed by Media Equities Corp. IS GRANTED.

7. IT IS FURTHER ORDERED, That the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order* by Certified Mail, Return Receipt Requested, to:

Dan J. Alpert, Esq.  
2120 N. 21<sup>st</sup> Road  
Arlington, VA 22201

8. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

9. For further information concerning the above, please contact Victoria M. McCauley at (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau